

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

THY MAO,	)	No. CV-08-065-PHX-FJM (CRP)
Petitioner,	)	
vs.	)	<b>REPORT AND</b>
	)	<b>RECOMMENDATION</b>
KATRINA KANE,	)	
Respondent.	)	

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On January 11, 2008, Thy Mao (“Petitioner”) filed a *pro se* Petition for Writ of Habeas Corpus (“Habeas Petition”) pursuant to 28 U.S.C. § 2241. (Doc 1). At the time, Petitioner was confined at the Immigration Detention Center in Eloy, Arizona awaiting removal to Cambodia. Petitioner argued he was detained beyond a 180-day period without his removal significantly likely to occur in the reasonably foreseeable future and that further detainment violated federal law as interpreted by the Supreme Court. *Zadvydas v. Davis*, 533 U.S. 678 (2001). On February 7, 2008, Petitioner was released from confinement on an Order of Supervision. (Doc 8, Exhibit 1). After Petitioner’s release, Respondent filed a Notice of Filing and Suggestion of Mootness arguing the Habeas Petition is now moot. (Doc 8).

1 **Procedural History**

2 On June 20, 2007, an immigration judge ordered Petitioner removed to  
3 Cambodia. (Doc 8, Exhibit 1). After being held for over six months, on January 11,  
4 2008, Petitioner filed the Habeas Petition pending before this Court. (Doc 1).  
5 Petitioner sought relief from his continued detention arguing there was no prospect  
6 that his removal to Cambodia would be effected in the reasonably foreseeable future.  
7 (Doc 1). On February 7, 2008, Petitioner was released on an Order of Supervision.  
8 (Doc 8, Exhibit 1). In a Notice of Filing and Suggestion of Mootness filed April 14,  
9 2008, Respondent argues the Habeas Petition is now moot because Petitioner has  
10 received the relief sought in the Habeas Petition. (Doc 8). Petitioner has not filed a  
11 Response to the Notice of Filing and Suggestion of Mootness and the time for filing  
12 such a response has expired.

13 **Analysis**

14 Article III of the United States Constitution empowers federal courts to  
15 adjudicate only actual, ongoing cases or controversies. *Deakins v. Monaghan*, 484  
16 U.S. 193, 199 (1988). It is insufficient that the case-or-controversy requirement is  
17 satisfied when the suit is filed, the requirement “subsists through all stages of federal  
18 judicial proceedings ... The parties must continue to have a personal stake in the  
19 outcome of the lawsuit.” *Lewis v. Continental Bank Corp.*, 494 U.S. 472, 477-478  
20 (1990) (internal quotations omitted.) Furthermore, if it appears that the Court is  
21 without the power to grant the relief requested by a habeas petitioner, then that case  
22 is moot. *Picrin-Person v. Rison*, 930 F.2d 773, 775-776 (9th Cir.1991).

23 In the case before this Court, Petitioner challenges only the legitimacy of his  
24 continued detention and seeks, as his sole request, relief from it in the form of  
25 supervised release. As Respondent points out, Petitioner is no longer in custody; he  
26 was released on an Order of Supervision on February 7, 2008. Petitioner, therefore,  
27 no longer has a personal stake in the outcome of this lawsuit. Additionally, the relief  
28

1 Petitioner requested, his release from continued and potentially indefinite detention,  
2 can no longer be granted by the Court. For these reasons, this case is moot.

3 **Recommendation**

4 After careful consideration of the Complaint and all papers filed in this action,  
5 the Magistrate Judge recommends that the District Court dismiss this Habeas Petition  
6 as moot. When Petitioner was released from detention it rendered his Habeas Petition  
7 moot.

8 Pursuant to Title 28 U.S.C. § 636(b), any party may serve and file written  
9 objections within 10 days of being served with a copy of this Report and  
10 Recommendation. If objections are not timely filed, they may be deemed waived.

11 If objections are filed, the parties should use the following case number: cv 08-  
12 065-PHX-FJM.

13 DATED this 1st day of May, 2008.

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16 **CHARLES R. PYLE**  
17 **UNITED STATES MAGISTRATE JUDGE**